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February 14, 2000

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BY HAND

Magalie Roman Salas, Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-A325
Washington, D.C. 20554

Re: Comments of CenturyTel, Inc. regarding *Federal-State Joint Board on Universal Service: Rural Telephone Companies Seek Removal of Individual Caps Placed on High Cost Loop Support*, CC Docket No. 96-45

Dear Ms. Salas:

Enclosed please find an original and 4 copies of the Comments of CenturyTel, Inc., in the above-referenced proceeding.

Please stamp and return to me the copy provided for this purpose. If you have any questions regarding this matter, please call me at (202) 637-2225.

Sincerely,



Richard R. Cameron

cc: Sheryl Todd (three copies)
International Transcription Services, Inc. (with diskette)

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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In the Matter of)	
)	
Federal-State Joint Board on Universal Service:)	CC Docket No. 96-45
)	
Rural Telephone Companies Seek Removal of Individual Caps Placed on High Cost Loop Support)	DA 00-21
)	
)	

COMMENTS OF CENTURYTEL, INC.

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February 14, 2000

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service:)	
)	
Rural Telephone Companies Seek Removal)	DA 00-21
of Individual Caps Placed on High Cost)	
Loop Support)	
)	

COMMENTS OF CENTURYTEL, INC.

CenturyTel, Inc. ("CenturyTel"), through its attorneys, hereby offers the following comments in connection with the above-captioned Public Notice, released January 24, 2000, seeking comment on the removal of caps imposed by the Commission on the universal service support received by individual local exchange carriers (LECs).¹

I. INTRODUCTION

CenturyTel, headquartered in Monroe, Louisiana, through its operating subsidiaries, provides integrated communications services including local exchange and advanced services, wireless, long distance, broadband and dial-up Internet access and security monitoring services to more than two million customers in largely rural areas of 21 states. Although CenturyTel serves approximately 1.3 million access lines in 600 local exchanges, roughly half of these exchanges serve fewer than 1,000 lines each. Each of the CenturyTel

¹ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Public Notice, Rural Telephone Companies Seek Removal of Individual Caps Placed on High Cost Loop Support, DA 00-21 (rel. Jan. 24, 2000) (Public Notice).

operating companies meets the definition of a “rural telephone company” contained in section 3(37) of the Communications Act of 1934, as amended (the Communications Act).²

II. BACKGROUND

For many decades, the Commission has pursued its goal of ensuring and promoting the universal availability of telephone service through a combination of implicit and explicit support mechanisms. Because carrier loop costs represent a large portion of the costs of the local exchange network, one such mechanism has historically sought to ensure that intrastate-allocated loop costs remain reasonably comparable between high-cost and low-cost areas. Specifically, although the jurisdictional separations rules require carriers to allocate 25 percent of their loop costs to the interstate jurisdiction, carriers with average loop costs substantially in excess of the national average are permitted to allocate a larger portion of their loop costs to the interstate jurisdiction.³ In the past, all loop costs allocated to the interstate jurisdiction were recovered by the carrier through a combination of interstate common line access charges and settlements from the carrier common line pool administered by the National Exchange Carrier Association (NECA).

Because carriers determine their average loop costs at the study area level, the Commission in 1984 froze study area boundaries to increase the stability and certainty of the environment in which it made universal service policy decisions. In the early 1990s, in response to a growing number of requests for waiver of this study area boundary freeze in connection with the sale and purchase of local telephone exchanges, the Commission began to require purchasing carriers to estimate the amount by which their high cost support would need to increase in

² 47 U.S.C. § 153(37).

³ 47 C.F.R. § 36.631.

connection with the transaction. The Commission routinely granted a waiver of the study area boundary freeze to allow these transactions to proceed, subject to the condition that the purchasing carrier's high costs support could not exceed the estimate offered in the waiver request without the explicit approval of the Common Carrier Bureau (Bureau). Despite extensive changes to the universal service support rules and mechanisms that the Commission has adopted since 1997 under section 254 of the Communications Act, many of these caps remain in place years after they were originally imposed.⁴

In 1999, the Common Carrier Bureau granted nine carrier requests that it remove these individual caps on universal service high cost support.⁵ Following the release of that decision, 26 additional companies filed similar requests that are currently before the Commission. The Commission's Public Notice, in addition to seeking comment on these requests, asks whether the Commission should clarify that its policy of removing individual universal service support caps that have been in effect for three or more years is applicable to all similarly situated companies.

CenturyTel supports the removal of both the individual universal service support caps that are the subject of current petitions before the Commission and those that the Bureau imposed on other, similarly situated companies. As the Bureau already concluded in the September, 1999, *Consolidated Study Area Waiver Order*, the caps have served their purpose. They now run counter to the Commission's fundamental universal service goal to ensure that high quality, affordable telecommunications services are available to all Americans, including those in rural and high cost areas.

⁴ 47 U.S.C. § 254.

⁵ *Petitions for Waiver and Reconsideration Concerning Sections 36.611, 36.612, 61.41(c)(2), 69.605(c), 69.3(e)(11) and the Definition of "Study Area" Contained in Part 36 Appendix-Glossary of the Commission's*

CenturyTel has three operating companies that are subject to such caps.⁶ Only two of the caps are operative because current support received by one company, Eagle Telecommunications, Inc. (Eagle), falls below the original cap amount by approximately \$800,000 per year. For Eagle, the cap represents an administrative inconvenience that could be removed by the Commission with no impact whatsoever on universal service support provided to any carrier.

III. INDIVIDUAL CAPS ON HIGH COST LOOP SUPPORT SHOULD BE REMOVED

Individual caps on universal service support for rural telephone companies that purchased high cost exchanges no longer serve the Commission's universal service policy goals. Although the Commission originally imposed the individual caps to prevent undue increases in universal service support, these concerns today have taken on lessened significance. The Commission has adopted a forward-looking support mechanism applicable to non-rural carriers that operates independently from actual carrier costs. In addition, the Commission has imposed a cap on overall high cost loop support provided to rural carriers under the embedded cost mechanism that currently continues to apply to these carriers. Moreover, the costs of explicit universal service support are now borne on a nondiscriminatory basis by all telecommunications carriers, and not by a narrow class of interexchange carriers, which pay carrier common line

Rules Filed by Copper Valley Tel., Inc., et al., AAD 93-93, et. al., Memorandum Opinion and Order on Reconsideration, DA 99-1845 (Com. Car. Bur. rel. Sept. 9, 1999) (Consolidated Study Area Waiver Order).

⁶ *See U S WEST Communications, Inc. and Eagle Telecommunications, Inc., Joint Petition for Waiver of the Definition of "Study Area" Contained in Part 36, Appendix-Glossary of the Commission's Rules, and Eagle Telecommunications, Inc., Petition for Waiver of Section 61.41(c) of the Commission's Rules, Memorandum Opinion and Order, 10 FCC Rcd 1771 (1995); U S WEST Communications, Inc., Pacific Telecom, Inc., and Telephone Utilities of Washington, Inc., Joint Petition for Waiver of Section 61.41(c)(2) and the Definition of Study Area Contained in the Part 36 Appendix-Glossary of the Commission's Rules, Memorandum Opinion and Order, 10 FCC Rcd 10570 (Com. Car. Bur., Acct. and Aud. Div. 1995); U S WEST Communications, Inc., Pacific Telecom, Inc., and Telephone Utilities of Eastern Oregon, Inc., Joint Petition for Waiver of Section*

charges in the course of their business, and large local exchange carriers that must pay long term support into the NECA pool.

Because the Bureau imposed the caps for an indefinite period, carriers proceeded on the expectation that their estimates of any needed increase in universal service support would govern for the foreseeable future. The Commission's policy goals – to prevent “gaming” of the universal service system and to maintain control of the size of the high cost loop support mechanism – have now fully been met.

The caps, having served their purpose, should now be discarded because, at best, they are an unnecessary administrative complication and, at worst, they impede the Commission's overall universal service goals. Even carriers that, prior to 1997, made a good-faith estimate of their anticipated costs and their attendant need for universal service support could not have foreseen with adequate clarity the sweeping changes in technology and the competitive landscape that have emerged in the years since. Accordingly, caps that have remained in place for over three years now may constrain support at a level below that which is otherwise necessary to ensure the availability of high quality services at affordable and reasonably comparable rates, as required by Section 254.⁷ CenturyTel's operating companies that are subject to individual universal service caps also serve substantially more lines today than they did when the caps were imposed, effectively reducing per-line support amounts below the levels contemplated by the original cap.

61.41(c)(2) and the Definition of Study Area Contained in the Part 36 Appendix-Glossary of the Commission's Rules, Memorandum Opinion and Order, 10 FCC Rcd 9996 (Com. Car. Bur., Acct. and Aud. Div. 1995).

⁷ 47 U.S.C. § 254. This presumes the cap is operative at all. As discussed above, at least one CenturyTel company receives support at a level below the cap imposed by the Bureau. For this company, the cap represents an administrative inconvenience, but otherwise has no effect on the support the company receives.

The Commission correctly concluded in the *Combined Study Area Waiver Order* that, “caps of unlimited duration may hinder [carriers’] incentive and ability to extend service to previously unserved areas, as well as to upgrade service to their existing customers.”⁸

CenturyTel has grown into one of the nation’s leading providers of high-quality services to rural areas by serving over two million customers with state-of-the art local exchange and advanced services, in addition to wireless, long distance, broadband and dial-up Internet access and security monitoring services. Of necessity, however, carriers that are constrained by an individual cap on their universal service support will be more limited in the amount and types of investments they can make to upgrade their networks, incorporate new technology, reduce rates, and improve services for rural customers.

Removal of the caps, on the other hand, would endanger no current Commission rule or policy. In 1997, the Commission amended its universal service rules applicable to transactions involving the sale and purchase of exchanges to require the purchaser to accept only the universal service support that the seller received prior to the transaction.⁹ Under this rule, the Bureau no longer imposes individually-tailored universal service support caps, so the removal of caps that have been in place since at least 1997 can have no impact on carrier expectations regarding current or future transactions involving the sale or purchase of local exchange properties. Rather, removal of the caps will represent an important transitional step in the Commission’s review of universal service support mechanisms now underway for rural carriers.

In addition, removal of the individual caps will have no substantial effect on the size of the high cost loop support mechanism. In 1993, at the recommendation of the Federal-State Joint Board on Jurisdictional Separations, the Commission imposed an indexed cap on the

⁸ *Combined Study Area Waiver Order*, at para. 10.

⁹ 47 C.F.R. § 51.305.

overall size of this fund.¹⁰ Since that time, rather than fluctuating with year-over-year changes in the actual national average cost per loop (NACPL), the size of the fund is capped and indexed to a maximum of the rate of increase in the actual number of working loops nationwide. In addition, the size of this mechanism was reduced on January 1, 2000, when all non-rural local exchange carriers migrated to a new, forward-looking universal service support mechanism and ceased to receive embedded high cost loop support.

Although this overall cap operates to reduce the high cost support provided to other carriers if the support to any individual carrier increases, this policy rationale cannot support the continued imposition of individual support caps. The effects of this overall cap on support for carriers that are not subject to the limits of an individual cap is likely to be minimal. The existence of an overall cap on the rate of increase of this mechanism may cause some reduction in support to carriers that are not subject to individual caps, if the removal of the individual caps causes a significant increase in demand for high cost loop support. Nevertheless, given the small number of lines subject to individual caps, and the fact that the Commission currently has the entire mechanism under review, removal of individual caps should have minimal impact on other carriers. Moreover, the caps today instead artificially *increase* the support provided to other carriers at the expense of capped carriers that have a legitimate need for greater support amounts.

Accordingly, because they no longer advance the Commission's universal service policy goals, the individual caps on high cost loop support should be removed.

¹⁰ *Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board*, Report and Order, 9 FCC Rcd. 303 (1994)

IV. ALL INDIVIDUAL CAPS IN PLACE FOR THREE OR MORE YEARS SHOULD BE REMOVED

There is no legal, policy, or procedural impediment to removal of *all* individual universal service support caps imposed by the Bureau in the context of transactions for which a binding purchase agreement was executed prior to May 7, 1997. Accordingly, the Commission should clarify that any individual cap on universal service support imposed by the Bureau under the former Commission policy will expire on the later of (a) three years after the cap was imposed; or (b) January 1, 2000.

The remaining caps, both the group that are subject to pending petitions for removal, and the group that soon will be, are indistinguishable from those that the Bureau already removed in its September, 1999 order. In that order, the Bureau concluded that, “limiting the petitioners to the high cost loop support estimated in their original [study area waiver] petitions, in perpetuity, is not necessary to accomplish the policies” underlying the original decision to impose the cap.¹¹ Indeed, the Bureau recognized that the caps may now restrain the carriers’ ability to expand and upgrade their services and service territories.¹² The common questions of law and fact presented with respect to all similar Bureau-imposed caps militate in favor of an economical, blanket solution here.

The Commission, therefore, as a matter of administrative convenience, should remove all individual high cost loop support caps to avoid the administrative burden, both on small carriers and the Commission, of preparing, filing, and resolving additional individual carrier petitions seeking relief. No additional notice and comment is required. The issues presented are well within the Notice of Proposed Rulemaking originally issued by the

¹¹ *Consolidated Study Area Waiver Order*, at para. 10.

¹² *Id.*

Commission in this proceeding,¹³ the many Further Notices of Proposed Rulemaking, and the Bureau's Public Notice soliciting direct comment on this issue.

For all carriers that had been subject to a universal service support cap for at least three years on January 1, 2000, the Bureau's removal of the cap should be made effective January 1, 2000. This was the date on which the Bureau's *Consolidated Study Area Waiver Order* took effect, and is administratively convenient for NECA and the Universal Service Administrative Corporation (USAC). In addition, it avoids the potential inequity that could result if support increases for some, but not all, formerly capped carriers, effective January 1.

¹³ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Notice of Proposed Rulemaking and Order Establishing a Joint Board, 11 FCC Rcd 18092 (1996).

V. CONCLUSION

For the foregoing reasons, CenturyTel urges the Commission to lift the individual caps placed on universal service support in the context of acquisitions of local exchange properties for all carriers that have been subject to such caps for at least three years, effective January 1, 2000.

Respectfully submitted,
CENTURYTEL, INC.

A handwritten signature in black ink, appearing to read "Richard R. Cameron". The signature is fluid and cursive, with a horizontal line drawn underneath it.

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